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MEMORANDUM

THE WHITE HOUSE
WASHINGTON~~SECRET~~INFORMATION

May 20, 1971

MEMORANDUM FOR THE PRESIDENT

FROM: HENRY A. KISSINGER *HK*

SUBJECT: Fisheries Disputes with Peru, Ecuador, and Brazil

State and Defense have had long-standing differences as to how best to deal with proliferating territorial sea claims which are contrary to your oceans policy. These matters have acquired some urgency because Brazil issued a decree in early April, which it intends to enforce starting June 1, affecting foreign vessels fishing in the 200 mile coastal waters over which Brazil asserted territorial sea claims a year ago.

State, Defense, and Commerce all have submitted memos to you outlining their views.

--State's position is that specific steps should be taken to calm the situation with respect to vessel seizures pending the 1973 Law of the Sea Conference. Such steps would include a recommendation to Congress that it repeal the "Pelly Amendment" to the Foreign Military Sales Act which requires a one-year suspension of military sales to a foreign country which seizes or fines a U. S. fishing vessel for fishing more than 12 miles from the coast, and negotiation of agreements with Peru, Ecuador, and Brazil for payment of license fees into an escrow account to be disbursed on the basis of the principles which will be established at the 1973 Law of the Sea Conference with respect to coastal state fishing rights.

--Defense's position is that it would be unwise to take any such tactical steps while the question of how to advance our overall oceans policy objectives is under review in NSSM 125. Defense also reasons that we should avoid tactical concessions prior to the July 19, 1971, meeting of the UN Seabeds Committee in Geneva, Switzerland, at which we will be seeking to advance our overall oceans policy objectives.

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--Commerce has taken yet another position which is essentially that we should negotiate with Peru, Ecuador, and Brazil along the lines proposed by State but should not propose removing the element of sanctions through repeal of the "Pelly Amendment."

I believe the issues and alternate approaches need to be more fully explored and to this end have issued NSSM 125, which calls for a full review by June 15 of measures for the achievement of your oceans policy.

Meanwhile, a negotiating mission was sent to Brazil on May 10 in an effort to delay the implementation of Brazil's new fishing regulations from June 1 until next fall. I also informed the Brazilian Ambassador privately of your personal interest in this problem, and of your desire to avoid unnecessary conflicts with Brazil while we work out our position on this complex issue. If the mission is successful, then we will be afforded the time necessary to consider our overall approach without the pressure of vessel seizures and the unfavorable implications such seizures would have for our bilateral relations. The agencies have also been directed to develop contingency options in the event Brazil does not agree to postpone implementation of its fishing regulations.

Finally, I have informed the agencies that the specific steps favored by State will be considered in the overall context of NSSM 125, and that action on these suggested steps is, therefore, deferred.

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